

REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and in light of the following remarks and discussion.

Claims 1-51 are pending in the application. Claims 1, 8, 15, 18, 22, 25, 30, 31, 45 and 51 are amended. Support for the changes to the claims is self-evident from the originally filed disclosure, including the original claims, and therefore no new matter is added.

Initially, Applicants gratefully acknowledge the Examiner's indication of allowable subject matter in claims 8, 9, 18, 22-25, 30 and 51, such that the objected to claims are to be allowed when rewritten in independent form. In response, claims 8, 18, 22, 25, 30 and 51 are so-rewritten. Claims 9, 23 and 24 depend from claims 8 and 22. Therefore, in accordance with the Examiner's indication of allowable subject matter, the allowance of claims 8, 9, 18, 22-25, 30 and 51 is requested.

In the Office Action claim 32 is rejected under 35 U.S.C. § 112, first paragraph. In response, the specification is amended to recite that the first end of the applicator is disposed outside of the reservoir both in the extended position and in the retracted position, consistent with the recitation of original dependent claim 32. It is submitted that depending on the arrangement of elements of the device 1, the portion of the applicator 4 adjacent the rod 15 can be disposed outside of the reservoir 2 when the device is in the retracted position. For example, depending on their relative lengths and locations, the rod 15 may not extend past the end of the means 10 which includes the edge 13, into the reservoir 2 when the device 1 is retracted. It is therefore requested that the rejection of claim 32 under 35 U.S.C. § 112 be withdrawn.

In the Office Action claims 1-7, 10-12, 14-17, 19-21, 26-29, 31-50 appear to be rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,013,171 to

Almond II (Almond).¹ Claims 1, 12 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,393,709 to Jones. It is requested that the rejections of the claims be withdrawn, and the claims allowed, for the following reasons.

The present invention, as recited in independent claim 1, is directed to a dispensing and packaging device for a product. Specifically, the independent claim recites a cap closing an opening in a reservoir containing the product, and an applicator capable of being loaded with a quantity of the product. A first means connects a first end of the applicator to the cap, while a second means connects a second end of the applicator to the reservoir. The second means is rigid and configured to be braced to maintain its orientation within the opening of the reservoir during application of the product.

The claimed invention can provide numerous advantages. By way of specific examples, precise application of a product in the dispensing device, such as eye makeup, can be achieved with the present invention. This precise application is possible because the rigidity of the second means allows the second means to be braced within and against the reservoir opening, such that the orientation of the second means, and consequently the orientation of the end of the applicator attached to the second means, is maintained. *See*, for example, paragraphs [0032] to [0034] of the originally filed specification. It is submitted that this precise application cannot be provided by an arrangement in which a rigid component is not braced in a reservoir opening, as the orientation of neither the component nor an applicator connected to the component can be maintained.

It is submitted that neither Almond nor Jones discloses or renders obvious the claimed features of a rigid component configured to be braced to maintain its orientation within a reservoir opening during application of a product contained in the reservoir, as recited in independent claim 1.

¹ Applicants request the Examiner's clarification as to the status of claims 43 and 44.

Almond is directed to a body lotion applicator. In contrast to the claimed features recited in independent claim 1, Almond discloses a flexible webbing 11 that cannot be braced to maintain its orientation within a reservoir opening.

Jones is directed to a chalk collector. In contrast to the claimed features recited in the independent claim, Jones discloses a chalk line (string) 12, which also cannot be braced to maintain its orientation within a reservoir opening.

For these reasons, it is requested that the rejections of independent claim 1 be withdrawn. The allowance of independent claim 1 is therefore also requested.

Independent claims 31 and 45 are allowable for reasons similar to those discussed with respect to independent claim 1. The allowance of independent claims 31 and 45 is requested.

The remaining claims are allowable for at least the same reasons as independent claims 1, 31 and 45 from which they depend, as well as for their own features, particularly in combination with the features of the independent claims. Allowance of the remaining dependent claims is therefore requested.

Consequently, for the reasons discussed in detail above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

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Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Respectfully submitted,

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